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Filing date: **07/24/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91205483
Party	Defendant Baba Slings Limited
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Date	07/24/2012
Attachments	15584_53_1 Answer.pdf (6 pages)(224384 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Serial No. 79/103,197

Filing Date: September 6, 2011

For the Mark: **theBabaSling**

BABA SLINGS PTY LTD,

Opposer,

v.

BABASLINGS LIMITED,

Applicant.

Opposition No. 91205483

**APPLICANT'S ANSWER TO NOTICE
OF OPPOSITION**

In response to the Notice of Opposition, dated June 5, 2012, Applicant Babaslings Limited ("Applicant") hereby responds and answers the Notice of Opposition filed by Opposer Baba Slings Pty Ltd. ("Opposer") follows:

ANSWER TO NOTICE OF OPPOSITION

Applicant admits that it is a United Kingdom company. Applicant lacks knowledge or information sufficient to form a basis to admit or deny that Opposer is an Australian proprietary limited company. Applicant admits that the records of the Trademark Trial and Appeal Board ("TTAB") appear to show that Opposer filed an extension of time to oppose Applicant's mark before the deadline. Applicant denies any and all remaining allegations of the opening paragraph of the Notice of Opposition.

Applicant hereby answers Opposer's grounds for opposition as follows:

1. Applicant denies that "Opposer is the company behind the popular sling baby carriers" sold under the name or mark BABA SLINGS and variations thereof. Applicant lacks

knowledge or information sufficient to form a basis to admit or deny any and all remaining allegations set forth in paragraph 1 of the Notice of Opposition, and, therefore, denies such allegations.

2. Applicant admits that a review of the Trademark Electronic Search System (“TESS”) database of the United States Patent and Trademark Office (“PTO”) reveals that Opposer is listed as the owner of United States Trademark Application Serial No. 85/633,700 (“the ‘700 Application”) for goods in International Class 18 identified as “Baby carriers worn on the body; Baby carrying bags; Bags for carrying babies’ accessories; Sling bags; Sling bags for carrying infants; Slings for carrying infants” as identified in paragraph 2 of the Notice of Opposition. Applicant lacks knowledge or information sufficient to form a basis to admit or deny whether Opposer is currently the owner of this application, and therefore, denies the same. Applicant denies any and all remaining allegations set forth in paragraph 2 of the Notice of Opposition.

3. Denied.

4. Denied.

5. Denied.

6. Denied.

7. Applicant lacks knowledge or information sufficient to form a basis to admit or deny any and all allegations set forth in paragraph 7 of the Notice of Opposition, and, therefore, denies such allegations.

8. Applicant lacks knowledge or information sufficient to form a basis to admit or deny any and all allegations set forth in paragraph 8 of the Notice of Opposition, and, therefore, denies such allegations.

9. Applicant admits that on September 6, 2011, Applicant filed a trademark application with the PTO, United States Trademark Application Serial No. 79/103,197 (“the ‘197 Application”) for the mark “theBabaSling with design” for use on goods in International Class 18 identified as “Bags, namely, all purpose carrying bags, baby carrying bags, and bags for

carrying babies' accessories; trunks and traveling bags; carriers for babies and children worn on the body; slings for carrying babies and children; back frames for carrying babies and children; sling bags for carrying babies and children; baby changing bags in the nature of bags for carrying babies' accessories; nappy bags in the nature of diaper bags; baby care bags in the nature of bags for carrying babies' accessories sold empty; travel bags; backpacks; suitcases; reusable shopping bags; reusable shopping bags in frames on wheels; umbrellas; parasols; structural parts and fittings for all the aforementioned goods." Applicant denies any and all remaining allegations set forth in paragraph 9 of the Notice of Opposition.

10. Applicant lacks knowledge or information sufficient to form a basis to admit or deny any and all allegations set forth in paragraph 10 of the Notice of Opposition, and, therefore, denies such allegations.

11. Applicant lacks knowledge or information sufficient to form a basis to admit or deny any and all allegations set forth in paragraph 11 of the Notice of Opposition, and, therefore, denies such allegations.

12. Applicant lacks knowledge or information sufficient to form a basis to admit or deny any and all allegations set forth in paragraph 12 of the Notice of Opposition, and, therefore, denies such allegations.

13. Applicant lacks knowledge or information sufficient to form a basis to admit or deny any and all allegations set forth in paragraph 13 of the Notice of Opposition, and, therefore, denies such allegations.

14. Denied.

Applicant denies any and all remaining allegations set forth in the Notice of Opposition.

AFFIRMATIVE DEFENSES

By way of defense to the allegations set forth in the Notice of Opposition, Applicant asserts the following:

FIRST AFFIRMATIVE DEFENSE

Opposer's Notice of Opposition fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Opposer's claims are barred by the doctrine of laches, estoppel, acquiescence, and/or waiver.

THIRD AFFIRMATIVE DEFENSE

Opposer is not likely to be damaged by registration of the '197 Application, and therefore, lacks standing to oppose the same.

FOURTH AFFIRMATIVE DEFENSE

Any rights Opposer may have in its asserted mark are limited and narrow in scope of protection and, therefore, no likelihood of confusion exists between Opposer's mark in the '700 Application as applied to Opposer's services and goods and Applicant's mark covered by the '197 Application as applied to Applicant's goods.

FIFTH AFFIRMATIVE DEFENSE

Applicant has priority over any rights Opposer may have in its mark covered by the '700 Application, and as a result any rights that Opposer does have in the mark covered by the '700 Application are inferior to Applicant's rights.

RELIEF REQUESTED

In view of the foregoing, Applicant respectfully requests that the relief requested by Opposer be denied, that the Notice of Opposition be dismissed with prejudice, and that the registration of Applicant's '197 Application be granted.

All correspondence and telephonic communications should be directed to:

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DATED this 24th day of July, 2012.

Respectfully submitted,

/Robyn L. Phillips/
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Attorneys for Applicant
BABASLINGS LIMITED

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing APPLICANT'S ANSWER TO THE NOTICE OF OPPOSITION was served on Opposer by mailing a true copy thereof to its attorney of record by First Class Mail, postage prepaid this 24th day of July, 2012, in an envelope addressed as follows:

Mark Borghese, Esq.
Borghese Legal, Ltd.
10161 Park Run Drive, Suite 150
Las Vegas, NV 89145

/Robyn L. Phillips/